IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10505 OF 2004

Shrimant Vijaysinh Amarsinnh
Naik Nimbalkar & Ors. ...Petitioners
vs.
Shri Gulab Dinkar Gunjvate & Ors. ...Respondents

Mr.Vishwanath Talkute for the Petitioners
Mr.Hemant Ghadigaonkar for Respondent Nos.12,13,17,18,35, 39,41 & 55

CORAM: A.S.OKA,J.
DATE : APRIL 4,2007.

P.C.:

1. By this Petition under Article 227 of Constitution of India, the Petitioners who are some of the Defendants have taken exception to the order dated 25th October 2004 passed by the Trial Court appointing the Survey Officer under Maharashtra Land Revenue Code,1960 as a Court Commissioner. Various submissions have been made as regards illegality of the said order.

2. The order is purely an interlocutory order which is capable of being challenged in an Appeal which may be preferred by the Petitioners against the decree passed in the suit, if the decree is adverse to the Petitioners. Apart from this aspect, the Petitioners can always submit objections in writing to the report of the Court Commissioner. The Petitioners can always invoke the provisions of sub Rule 3 of Rule 10 of Order XXVI of the Code of Civil Procedure,1908. The Petitioners can also apply for examination of the Court Commissioner on oath.

3. Subject to what is stated aforesaid, Writ Petition is rejected.

JUDGE